

ADVISORY OPINION 94-006

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

June 10, 1994

Mr. Russ Maple
Edward J. Miller Insurance
125 Chenoweth Lane, Suite 106
Louisville, Kentucky 40207

Dear Mr. Maple:

Thank you for contacting the Registry. The facts to your question can be stated as follows:

You host a radio talk show on radio station 680 AM in Louisville, Kentucky. The show airs twice a month, and it is a public service interview show.

Based on the information you have provided, your question is two part and can be stated as follows:

1. Can an elected official, who appears on your radio show, contribute \$75.00 from his or her campaign fund to the cost of production of the show when the elected official appearing on the show is "not up for election" and "has not filed for re-election?"
2. May the elected official above contribute his or her personal money towards the production costs of your radio show?

In reverse order, the answer to the second part of your question is yes, an elected official may use his or her personal funds to contribute towards the production costs of your radio show when he or she appears on the show. The answer to the first part of your question is a qualified yes. The Registry would look to the intent of the person appearing on your show to answer the question.

The relevant portion of KRS 121.015(8) defines "candidate" as: "Any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office..." Id. Given the KRS Chapter 121 definition of the term "candidate," a "candidate" might have to register and begin filing with the Registry before he or she files to have his or her name placed on the ballot. In fact, many candidates (incumbents and challengers) report as future year candidates well before they actually file to be placed on the ballot. See KRS 121.180(3)(a). Only an elected official or challenger, who is a candidate under KRS 121.015(8), and is reporting to the Registry, may use campaign account funds to pay for production costs associated with an appearance on your radio show.

Therefore, the situation you describe goes to the intent of the person appearing on your program. If the person appearing on your program chose to help pay for production costs from his or her campaign account, that person should be reporting with the Registry as a future year candidate under KRS 121.180(3)(a). If the challenger or incumbent appearing on your show were not registered and reporting as a future year candidate or current candidate, he or she might be violating Kentucky campaign finance law. The actual cost of \$75.00 to appear on your radio show is a reasonable charge, considering the advertising value a challenger or incumbent would receive by appearing on your show.

The analysis above squares well with KRS 121.175. **Allowable campaign expenditures.** ... Id. This statute, and its recently adopted interpretive regulation, 32 KAR 2:200, permit candidates, future year or otherwise, to expend campaign funds in support of their candidacy if the expenditures have advertising value. The situation you describe certainly should be an opportunity for a candidate to advertise his or her candidacy.

This opinion is based upon the course of action outlined in your letter. If you should have any more questions, please give us a call. Thank you.

Sincerely,

Timothy E. Shull
General Counsel

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